



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 18, 2011

Mr. Floyd M. Akers
City Attorney
Pflugerville Police Department
P.O. Box 679
Pflugerville, Texas 78691-0679

OR2011-07007

Dear Mr. Akers:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 417848.

The Pflugerville Police Department (the "department") received a request for information pertaining to a specified incident. You state that the department has released some of the requested information. You claim that the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," and encompasses information made confidential by other statutes. Gov't Code § 552.101. You generally seek to withhold the submitted information on the basis of chapter 58 of the Family Code. However, you have not directed our attention to any particular provision of chapter 58 that you contend is applicable to the submitted information, nor have you provided any arguments explaining how or why any provision of chapter 58 would be applicable in this instance. Accordingly, we find you have failed to establish that chapter 58 of the Family Code applies to any of the submitted information and you may not withhold any of the information on that basis. *See id.* §§ 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested), .302.

Section 552.101 also encompasses section 261.201 of the Family Code, which provides in relevant part:

(a) [T]he following information is confidential, is not subject to public release under [the Act] and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

...

(k) Notwithstanding Subsection (a), an investigating agency, other than the [Texas Department of Family and Protective Services] or the Texas Youth Commission, on request, shall provide to the parent, managing conservator, or other legal representative of a child who is the subject of reported abuse or neglect, or to the child if the child is at least 18 years of age, information concerning the reported abuse or neglect that would otherwise be confidential under this section. The investigating agency shall withhold information under this subsection if the parent, managing conservator, or other legal representative of the child requesting the information is alleged to have committed the abuse or neglect.

(l) Before a child or a parent, managing conservator, or other legal representative of a child may inspect or copy a record or file concerning the child under Subsection (k), the custodian of the record or file must redact:

....

(3) the identity of the person who made the report.

Fam. Code § 261.201(a), (k)-(l). Upon review, we agree the submitted report constitutes files, reports, records, communications, audiotapes, videotapes, or working papers used or developed in an investigation under chapter 261. *See id.* § 261.001(1) (defining “abuse” for the purposes of chapter 261 of the Family Code); *see also* Penal Code § 22.04(c) (defining “child” for purposes of injury to a child as a person 14 years of age or younger). Thus, we find the submitted report is generally confidential under section 261.201. In this instance,

however, the requestor is a parent of the child victim listed in the report, and is not alleged to have committed the reported abuse. Accordingly, the department may not use section 261.201(a) to withhold this report from this requestor. *See id.* § 261.201(k). However, section 261.201(l)(3) states the identity of the reporting party must be withheld when a governmental body releases information under section 261.201(k). *Id.* § 261.201(l)(3). Accordingly, the department must withhold the information we have marked under section 552.101 in conjunction with section 261.201(l)(3). As you raise no additional exceptions against disclosure, the remaining information must be released to this requestor.¹

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Laura Ream Lemus
Assistant Attorney General
Open Records Division

LRL/em

Ref: ID# 417848

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹As noted, the requestor in this instance has a special right of access under section 261.201(k) of the Family Code to the information being released. Accordingly, if the department receives another request for this information from a different requestor, then the department should again seek a decision from this office. *See* Gov't Code §§ 552.301, .302; Open Records Decision No. 673 (2001).